

REMARKS

Claims 1-9 are pending. Claims 1-9 have been rejected. Applicants respectfully traverse the rejection of the application and request allowance of the application for the reasons below.

Claim Rejections – 35 USC §102

Claims 1-9 have been rejected under 35 USC §102(e) as being anticipated by Gerzberg et al. (US Patent 6,570,890), hereinafter Gerzberg. According to the Examiner, Keenan discloses the claimed invention:

“Regarding claim 1 and 7, Gerzberg teaches a method for transmitting delay sensitive information (DSI) and non-delay sensitive information (NDSI) over a communication link of a communication network, the method comprising the steps of: transmitting fragmented NDSI (data) in accordance with a network protocol where the fragmenting is based on parameters of received DSI (voice) and is performed in accordance with a network layer protocol (Column 12 Line 66- Column 13 Line 9).”

Applicants respectfully traverse the Examiner’s reading of Gerzberg. Referring to FIGS. 6A and 6B. of Gerzberg, shown is information being multiplexed onto one or more DSL frames in order to dynamically allocate bandwidth. Gerzberg goes on to explain (Column 12, line 63 to Column 13 line 5):

“When data is being input for transmission and a voice call comes in, a dynamic allocation of bandwidth may occur. Assume that 1 Mbps is available for information transfer. Prior to the incoming call, all 1 Mbps may be completely used for the data transmission. However, as soon as a voice call comes in, since voice has a higher priority than data, a 64Kbps channel is **deallocated** from data usage and is **allocated** for voice.”

(Bold added for Emphasis)

In other words, Gerzberg dynamically allocates a portion of the available bandwidth between voice and data. However, the data and voice is transmitted at the same fixed rate because bandwidth allocation does not affect the size of the data (or voice) transmitted or the rate at which data (or voice) is transmitted. As explained below, bandwidth allocation in Gerzberg is not the same as fragmentation as in the present invention.

In sharp contrast, Applicant's invention, as recited in the claimed invention, discloses a technique for transmitting DSI and NDSI over a communication link of a communication network. The method includes transmitting fragmented NDSI in accordance with a network protocol where the fragmenting is based on parameters of received DSI and is performed in accordance with a network layer protocol. Fragmentation is the "repackaging of the packets such that the length of each packet is changed." (see page 4, lines 19-20 of the present application). That is, the claimed invention uses fragmentation to transmit NSDI packets having a length that is non-constant. Gerzberg dynamically allocates the available bandwidth between voice and data but the packet length of the data or voice is transmitted at a fixed or constant rate. In other words, the technique of fragmentation of the present invention affects packet size and data rate whereas the technique in Gerzberg of bandwidth allocation does not affect the packet size. In sum, fragmentation is not the same as bandwidth allocation.

Consequently, Gerzberg fails to teach or suggest claim 1 and thus does not anticipate the claimed invention for at least the above reasons. Claims 2-6 depend in varying scope from claim 1 and, therefore, also avoid Gerzberg for at least the same reasons as discussed above. Claim 7 recites an apparatus based on the method of claim 1.

Claim 7 should be allowable for at least the same reasons as claim 1. Claims 8-9 depend in varying scope from claim 7 and, therefore, also avoid Gerzberg for at least the same reasons as discussed above.

Request for Reconsideration pursuant to 37 CFR 1.111

Having responded to each and every ground for objection and rejection in the Office Action mailed on May 17, 2005, Applicant requests reconsideration in the instant application pursuant to 37 CFR 1.111 and requests that the Examiner allow claims 1-9 and pass the application to issue. If there is any point requiring further attention prior to allowance, the Examiner is asked to contact Applicants' counsel who can be reached at the telephone number listed below.

Respectfully,

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